

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Marcella Scott, as trustee
and personal representative for the
heirs and next of kin of
Randolph E. Scott, a/k/a Randy Scott,

Plaintiffs,

vs.

United States of America,

Defendant.

COMPLAINT

Civil No. 06cv 3012
JRT/FLN

For her Complaint, Plaintiff states and alleges the following:

INTRODUCTION

1. This is a civil wrongful death action brought by the Plaintiff, Marcella Scott, as trustee and personal representative for the next of kin and heirs of Randolph E. Scott a/k/a Randy Scott, pursuant to the Federal Tort Claims Act, 28 U.S.C. §1346(b).

2. On July 14, 2005, Plaintiff submitted on a government standard form a formal claim in the amount of \$25,023,482 to the United States House of Representatives, receipt of which was acknowledged by Deputy General Counsel for the House of Representatives, Kerry W. Kircher. To this date the defendant has not responded to the claim.

THE PARTIES

3. Marcella Scott is a resident and citizen of the State of Minnesota and the mother of the decedent, Randolph Scott, who was a resident and citizen of the State of Minnesota at the time of his death.

4. The United States of America is the proper defendant under the Federal Tort Claims Act in that the death of Randolph Scott was caused by United States Congressman, William J. Janklow while acting within the scope of his employment as a member of the United States House of Representatives.

SCANNED
JUL 14 2006
U.S. DISTRICT COURT Mpls

THE FACTS

5. On August 16, 2003, at about 10 miles south of Flandreau, South Dakota, in Moody County, Congressman Janklow was driving a Cadillac automobile south on Moody County Road 13 (481st Avenue) at an excessive speed of approximately 70 miles per hour when he failed to stop at the stop sign, causing him to crash into Randolph Scott, who was driving his motorcycle west on through highway Moody County Road 14 (240th Street) at its intersection with County Road 13.

6. Janklow drove his vehicle carelessly, negligently and recklessly with conscious and unjustifiable disregard of a substantial risk that his conduct may cause an accident endangering the lives of others by failing to stop for the stop sign and speeding through the intersection, smashing into the plaintiff and his motorcycle, instantly killing the decedent.

7. Janklow was driving the 1995 Cadillac automobile with the consent of its owner, Marc Tobias.

8. On December 8, 2003, Mr. Janklow was convicted of manslaughter in the second degree, reckless driving, running a stop sign and speeding by a South Dakota jury.

9. To find Janklow guilty of second degree manslaughter the jury had to conclude beyond a reasonable doubt that at the time of the accident Janklow drove his vehicle carelessly, negligently, recklessly and with conscious and unjustifiable disregard of a substantial risk that his conduct could cause an accident endangering the lives of others by failing to stop for a stop sign and speeding through an intersection, smashing into Randolph Scott, instantly killing him.


10. As a direct and proximate result of Janklow's negligence, carelessness and recklessness, the decedent sustained injuries which caused his wrongful death.

11. That as a direct and proximate result of the untimely and wrongful death of the decedent, the heirs and next of kin have incurred funeral expenses and sustained pecuniary loss within the purview of Minn. Stat. § 573.02 and/or SDCL 21-5-7, including loss of the decedent's

society and companionship, and have been damaged in an amount not to exceed twenty five million dollars (\$25,000,000), together with costs, disbursements, and statutory prejudgment interest.

MESHBESHER & SPENCE, LTD.

Dated: July 14, 06

By: 
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